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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,204	11/12/2003	Everett R. Salinas	200302273-2	6002

7590 08/02/2005
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

CHANG, YEAN HSI

ART UNIT PAPER NUMBER

2835

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,204

Applicant(s)

SALINAS ET AL.

Examiner

Yean-Hsi Chang

Art Unit

2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-44 and 46 is/are allowed.
- 6) ☒ Claim(s) 1-38, 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,667,879 B2 (Pat'879). Although the conflicting claims are not identical, they are not patentably distinct from each other because all subject matters claimed are the same except the arrangements in the claims are different and some terminologies claimed are different, such as: a removable component vs. a drive, a retention latch vs. a latch, a leveraging release member vs. a lever, a multi-stage actuator vs. an actuation member, a first actuator member vs. a button, a second actuator member vs. a base portion, a flexible member vs. a spring member, an angled surface vs. a sliding surface, and etc. Even though there are subject matters not claimed in the claims of Pat'879, such as a

pivot, and a catch member; however, It would have been obvious to one having ordinary skill in the art that there must be a pivot for "a lever pivotally mounted ...", and there must be a catch member for "a catch configured to secure the drive to the chassis."

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12-15, 17-20, 22 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell et al. (US 5,305,180).

Mitchell teaches a computer drive (20, fig. 2) comprising: a drive chassis (20), a latch (90) movable between released and secured positions (figs. 5) against the drive chassis, a lever (135) movable between unleveraged and leveraged positions (figs. 6) against the drive chassis, a first actuator (108) configured to engage with the latch to move the latch from the secured position to the released position, and a second actuator (42) configured to engage with the lever after the latch has been moved to the released position to move the lever from the unleveraged position to the leveraged position (claim 12); wherein the drive chassis comprises a rewritable storage device (20) (claim 13); wherein the rewritable storage device comprises a hard disk drive or a floppy disk drive (see col. 1, lines 27-39) (claims 14 and 15); wherein the latch

comprises a catch member (95) disposed adjacent a forcibly-flexible member (98) (claim 17); wherein the first actuator and the latch are wedgingly engageable along an angled surface (110 and 105) (claim 18); wherein the lever comprises a pivot joint (136) and an abutment surface (at 137) offset from the pivot joint, wherein the second actuator is movable against the abutment surface (see col. 7, lines 31-34) (claim 19); wherein the first and second actuators are movable one after another along a substantially linear path (fig. 4) (claim 20); wherein at least one of the first and second actuators comprises an externally accessible engagement portion (41) (claim 22); and wherein actuation of the first actuator to transition the latch from the secured position to the released position releases the drive chassis with respect to a support structure, and wherein actuation of the second actuator to transition the lever from the unleveraged position to the leveraged position ejects the drive chassis with respect to the support structure (as stated hereinabove) (claim 45).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al. in view of Tirrell et al. (US 5,828,546).

Mitchell discloses the claimed invention except indicating the drive chassis comprising an optical storage device.

Tirrell teaches a computer drive (35, fig. 2) comprising a drive chassis (01) including an optical storage drive (see col. 6, line 63 through col. 7, line 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Mitchell with the disk drive taught by Tirrell so the latch mechanism may be applied to a optical storage drive for increasing the flexibility.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al. in view of Lwee (US 5,299,089).

Mitchell discloses the claimed invention except the first and the second actuator member being disposed movably one within the other.

Lwee teaches a disk drive latch mechanism (fig. 1) comprising a first actuator member (62b) and a second actuator member (104) being externally accessible (claims 11 and 38) and disposed movably one within the other (see col. 8, lines 21-27) (claims 8, 21, 29, 34 and 43).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Mitchell with the actuator members taught by Lwee for operating the actuator members independently and in a proper sequence.

Allowable Subject Matter

8. Claims 1-11, 23-44 and 46 are allowed.
9. The following is a statement of reasons for the indication of allowable subject matter: The best prior art of record, Mitchell et al. (US 5,305,180), Tirrell et al. (US 5,828,546), Lwee (US 5,299,089), and Kajiura (US 6,155,853), taken alone or in combination, fails to teach or fairly suggest a latch mechanism, and its operation and manufacturing methods, comprising, in addition to other limitations: a second actuator member being configured to be actuated to move a component release lever in response to actuation of a first actuator member to effect a movement of a component retention latch as set forth in claims 1, 23, 32, and 39. Claims 2-11, 24-31 and 46, 33-38, and 40-44 are dependent claims from claims 1, 23, 32, and 39, respectively.

Response to Arguments

10. Applicant's arguments with respect to claim 12 filed 7/14/05 have been fully considered but they are not persuasive. Applicants argue that "a second actuator configured to engage with the lever after the latch has been moved to the released position to move the lever" is one of claimed features not found in Mitchell. Referring col. 8, lines 15-51 of the specification of Mitchell, the unlatching and unlocking are done before eject member 135 to be moved. It would be hardly possible for a drive being ejected before unlocked.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yean-Hsi Chang whose telephone number is (571) 272-2038. The examiner can normally be reached on 07:30 - 16:00, Monday through Friday.

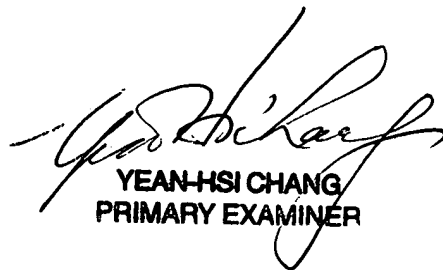
If attempts to reach the examiner by telephone are unsuccessful, the Art Unit phone number is (571) 272-2800, ext. 35. The fax phone number for the organization

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where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-8558.

Yean-Hsi Chang
Primary Examiner
Art Unit: 2835
August 1, 2005



YEAN-HSI CHANG
PRIMARY EXAMINER